

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Docket Number (Optional)

1760-305

In re Application of: Christopher N. Tinius

Application No.: 10/607,223

Filed: June 26, 2003

For: Soybean Cultivar 6190006

The owner*, D&L Technology Holding Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 10/412,724, filed on April 10, 2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said **reference** application, "as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application," in the event that: any such patent: granted on the pending **reference** application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 44,324

Kenyon L. Schuett
Signature

July 24, 2006
Date

Kenyon L. Schuett

Typed or printed name

07/26/2006 HDESTA1 00000010 10607223

02 FC:1814 130.00 0P

(303) 799-6444

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).

Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

INTERNATIONAL FORM

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

To: (Name and Address of Depositor or Attorney)

Jondle & Associates PC
Attn: Kenyon L. Schuett
858 Happy Canyon Road
Suite 230
Castle Rock, CO 80108

Deposited on Behalf of: Delta and Pine Land Company

Identification Reference by Depositor:

Patent Deposit Designation

Soybean <i>Glycine max</i> (L.): 3133014	PTA-7230
Soybean <i>Glycine max</i> (L.): 1339013	PTA-7231
Soybean <i>Glycine max</i> (L.): DP 5634 RR	PTA-7232
Soybean <i>Glycine max</i> (L.): 7085005	PTA-7233
Soybean <i>Glycine max</i> (L.): 4136015	PTA-7234
Soybean <i>Glycine max</i> (L.): 6084016	PTA-7235
Soybean <i>Glycine max</i> (L.): 6190006	PTA-7236
Docket or Case No.: 1760-331, 1760-329, 1760-281, 1760-287, 1760-330, 1760-332, 1760-305	

The seeds were accompanied by: a scientific description a proposed taxonomic description indicated above. The seeds were received November 30, 2005 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: X We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.

If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested January 19, 2006. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris
Marie Harris, Patent Specialist, ATCC Patent Depository

Date: February 18, 2006